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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,185	07/10/2001	Yasser alSafadi	US010318	7534

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EXAMINER

USTARIS, JOSEPH G

ART UNIT PAPER NUMBER

2623

DATE MAILED: 09/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/902,185

Applicant(s)

ALSAFADI ET AL.

Examiner

Joseph G. Ustaris

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-7 and 9-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-7, and 9-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. This action is in response to the RCE dated 27 January 2006 in application 09/902,185. Claims 1, 3-7, and 9-19 are pending. Claims 1, 3-7, 9-19 are amended.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 January 2006 has been entered.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: Claim 1 recites an incorrect status identifier. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to

Art Unit: 2623

support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit ***the computer program's functionality to be realized***, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim(s) 19 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 19 defines a computer program embodying functional descriptive material. However, the claim does not clearly define "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits ***the function of the descriptive material to be realized***" (Guidelines Annex IV). That is, the scope of the presently claimed computer program "when executed" cannot be fully realized. Any amendment to the claim should be commensurate with its corresponding disclosure.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-7, 9-14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman et al. (US006243707B1) in view of Fontana et al. (US006167564A) and Knowles et al. (US006505348B1).

Regarding claim 1, Humpleman et al. (Humpleman) discloses a method where a home HTML/XML network program guide is produced from an original generic EPG or other various sources or "content-related information" (See column 4 lines 16-33, column 22 lines 57-60, and column 23 lines 18-29). The home HTML/XML network program guide is built based on a standard program format incorporating HTML or XML standards or "reference information model", where information from the original generic EPG or other various sources is extracted and converted or "configuring" into the HTML/XML standard program format. Thus the end result of the process is a HTML/XML network program guide (See column 22 line 66 – column 23 line 5). The devices on the network have a session manager or "electronic program guide" program that is able to "process" the HTML/XML network program guide and display it to the user (See Fig. 10, programming; column 9 lines 35-52, column 17 lines 35-45, and column 18 lines 61-67). The HTML/XML network program guide can be processed by a session manager on a DTV or "electronic program guide of the first type" or by a session manager on a PC or "second electronic program guide of a second type different than the first type" (See column 6 lines 1-13 and column 23 lines 2-11). Furthermore, the HTML/XML network program guide is "selectively extractable in accordance with the specified semantic and syntactic consensus", wherein the

electronic program guide selectively extracts only the information that the user wants and displays the information following/agreeing with the meaning and syntax of the HTML/XML codes (See column 22 lines 60-65 and column 23 lines 9-11). However, Humpleman does not disclose (1) configuring the reference information object model in accordance with a unified modeling language format and (2) the reference information object model comprising a plurality of directly or indirectly interrelated classes having at least one specified property.

(1) Humpleman discloses that the HTML/XML network program guide can be developed using XML codes (See column 4 lines 16-33). Fontana et al. (Fontana) discloses various development tools used to develop various interfaces. Fontana utilizes the UML format when communicating/developing with client or “configuring in accordance with a unified modeling language format”. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Humpleman to configure the reference information object model in accordance with a unified modeling language format, as taught by Fontana, in order to be in accordance with a well known and industry-standardized modeling language thereby ensuring greater compatibility and offering the capability of using object oriented programming.

(2) Knowles et al. (Knowles) discloses an interactive electronic program guide system. Knowles discloses that the IPGs can be customized, wherein the format of the IPG can be changed. The IPG contains information on pay-per-view (PPV) and different Themes of programming or “plurality of directly or indirectly interrelated classes having

at least one specified property” (See Fig. 9). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Humpleman to provide “plurality of directly or indirectly interrelated classes having at least one specified property”, as taught by Knowles, in order to expand the capabilities of the HTML/XML network program guide by providing different types of information to the users.

Regarding claim 4, the PPV and Theme gives a list of times or “attributes” for the programs available (See Knowles Fig. 10 and column 5 lines 61-63).

Regarding claim 5, based on the guide customizations discussed in claims 1 and 4, the format of the IPG can provide additional information or “plurality of elements” such as movies or “classes” and a list of episodes or “enumeration elements”. Furthermore, the list of episodes or “enumeration elements” is associated with the movies or “classes”, while the movies are also “associated” with other types of programs such as sports or “plurality of classes” (See Knowles Fig. 9 and Fig. 10).

Claim 6 contains the limitations of claim 5 (wherein the movies provide different programs or “program class element” or a list of movies or “remaining class elements”, (See Knowles Fig. 10)) and is analyzed as previously discussed with respect to that claim.

Regarding claim 7, the IPG disclosed by Knowles further presents the Themes or “classes” as objects that can be seen from a screen, wherein some of the objects are listed or “oriented” in alphabetic order. Furthermore, the Themes or “classes” contain additional information such as channel numbers or “attributes”. The whole screen of the

IPG contains different information elements or “structures” that enable the user to browse efficiently (See Knowles Fig. 10).

Regarding claim 9, the IPGs each could have their own configuration based on the guide customizations or “reference information model” thus producing different layouts or “schema” for each IPG (See Knowles column 7 lines 34-45), with the information being retrieved from the original generic EPG or “content-related information” as discussed in claim 1.

Claim 10 contains the limitations of claim 9 (wherein the IPGs or HTML/XML network program guides could have their own different layouts or “plurality of different schema” and be read or “processed” by the PC or DTV as discussed in claim 1) and is analyzed as previously discussed with respect to that claim.

Regarding claim 11 and 12, the HTML/XML network program guide is updated (thus producing a “subsequent version”) based on the newly updated original generic EPG or “second set of data specifications”. This process is an “iterative process” wherein the process, which performs the same steps each time to update the HTML network program guide, is repeated periodically (See Humpleman column 23 lines 7-11).

Regarding claim 13, the HTML/XML network program guide receives its information from a original generic EPG or “content-related information”, where the original format of the original generic EPG is not compliant to the HTML standard program format or “reference information model”, therefore the generic EPG is



converted or “transformed” into a HTML standard program format (See Humpleman column 22 line 66 – column 23 line 5).

Regarding claim 14, the original generic EPG is dependent on the DBSS and will inherently be read by the EPG program of the DSS-NIU or “electronic program guide of a type not based on the reference information model”. Alternatively, the original generic EPG is converted into the HTML/XML standard program format or “second format” to produce a HTML/XML network program guide to be read by the session managers or “electronic program guide of the first type” on the network (See Humpleman Fig. 1; column 22 line 66 – column 23 line 17).

Claim 19 contains the limitations of claim 1 (where inherently system is operated by executing “one or more software programs stored on a machine-readable storage medium”) and is analyzed as previously discussed with respect to those claims.

Claims 3 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman et al. (US006243707B1) in view of Fontana et al. (US006167564A) and Knowles et al. (US006505348B1) as applied to claims 1, 4-7, 9-14, and 19 above, and further in view of Kido (US 20020073081A1).

Regarding claim 3, Humpleman in view of Fontana and Knowles does not disclose a method where the generic EPG or “content-related information” is in an extensible mark-up language (XML).

Kido discloses a method where an EPG is generated and distributed to the client (See Fig. 8). The generated EPG or original generic EPG or “content-related

information” is produced using HTML or XML (See paragraph 0138). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the original generic EPG disclosed by Humpleman in view of Fontana and Knowles to be in an extensible mark-up language, as taught by Kido, so that the original generic EPG would be in accordance with a well known and established language thereby ensuring greater compatibility between the devices.

Regarding claim 15, the process of generating an EPG using XML, as taught by Kido, may be also applied in the conversion or “transforming” step discussed in claim 13 in order to continue the use of a well known and established language, thereby further ensuring greater compatibility.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman et al. (US006243707B1) in view of Fontana et al. and Kido (US 20020073081A1).

Regarding claim 16, Humpleman et al. (Humpleman) discloses a method where a home HTML/XML network program guide is produced from an original generic EPG or other various sources or “content-related information” (See column 4 lines 16-33, column 22 lines 57-60, and column 23 lines 18-29). The home HTML/XML network program guide is built based on a standard program format incorporating HTML or XML standards or “reference information model”, where information from the original generic EPG or other various sources is extracted and converted or “configuring” into the HTML/XML standard program format. Thus the end result of the process is a

HTML/XML network program guide (See column 22 line 66 – column 23 line 5). The devices on the network have a session manager or “electronic program guide” program that is able to “process” the HTML/XML network program guide and display it to the user (See Fig. 10, programming; column 9 lines 35-52, column 17 lines 35-45, and column 18 lines 61-67). The HTML/XML network program guide can be processed by a session manager on a DTV or “electronic program guide of the first type” or by a session manager on a PC or “second electronic program guide of a second type different than the first type” (See column 6 lines 1-13 and column 23 lines 2-11). The HTML/XML network program guide is “selectively extractable in accordance with the specified semantic and syntactic consensus”, wherein the electronic program guide selectively extracts only the information that the user wants and displays the information following/agreeing with the meaning and syntax of the HTML/XML codes (See column 22 lines 60-65 and column 23 lines 9-11). Furthermore, the home device or “processing device” produces a HTML/XML network program guide or “corresponding output” that is sent to a client, e.g. a PC or Digital Television (DTV) or “devices associated with respective electronic program and second electronic program guides” (See Humpleman Fig 1. element 102 and 104). However, Humpleman does not disclose (1) configuring the reference information object model in accordance with a unified modeling language format and (2) where the generic EPG or “content-related information” is in an extensible mark-up language (XML).

(1) Humpleman discloses that the HTML/XML network program guide can be developed using XML codes (See column 4 lines 16-33). Fontana et al. (Fontana)

discloses various development tools used to develop various interfaces. Fontana utilizes the UML format when communicating/developing with client or “configuring in accordance with a unified modeling language format”. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the system disclosed by Humpleman to configure the reference information object model in accordance with a unified modeling language format, as taught by Fontana, in order to be in accordance with a well known and industry-standardized modeling language thereby ensuring greater compatibility and offering the capability of using object oriented programming.

(2) Kido discloses a method where an EPG is generated and distributed to the client (See Fig. 8). The generated EPG or original generic EPG or “content-related information” is produced using HTML or XML (See paragraph 0138). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the original generic EPG disclosed by Humpleman in view of Fontana and Knowles to be in an extensible mark-up language, as taught by Kido, so that the original generic EPG would be in accordance with a well known and established language thereby ensuring greater compatibility between the devices.

Claim 17 contains the limitations of claim 16 and is analyzed as previously discussed with respect to that claim. Furthermore, Humpleman discloses that the method discussed in claim 16 can be embodied as a satellite receiving terminal labeled as DSS-NIU or “processor apparatus” (See Humpleman Fig. 1 element 104). In addition, the DSS-NIU or home device can maintain its own respective program guide;

therefore inherently the DSS-NIU or home device has a "memory" associated with it (See Humpleman column 23 lines 41-49).

Claim 18 contains the limitations of claim 16 and is analyzed as previously discussed with respect to that claim. Furthermore, Humpleman also discloses that the method discussed in claim 16 can be received or "implement" by a Digital TV, personal computer (PC) or client or "processor apparatus" (See Humpleman Fig. 1 element 102; column 23 lines 5-8). In addition, it is known that a PC inherently utilizes some type of "memory".

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1, 3-7, and 9-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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